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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,978	11/16/2001	Fred J. Callahan	CLLP:101_US_	7658
24041	7590	09/29/2004	EXAMINER	
SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406			BUTLER, DOUGLAS C	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary

Application No.

09/992,978

Applicant(s)

CALLAHAN ET AL.

M

Examiner

Douglas C. Butler

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-21 is/are pending in the application.
- 4a) Of the above claim(s) 4,5 and 8-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-6 and 8-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. An action on the merits of claims 1-3, 6 and 15-21 considered readable on the invention of Group I and on the elected species is included in this office action. Claims 4-5 and 8-14 are withdrawn from consideration under 37 C.F.R. § 1.142(b) as being drawn to a nonelected invention and species. Election was made without traverse in that no arguments have been set forth.

2. Claim 7 has been canceled.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 6, 15-16, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urban (4588050), of record, in view of Bluhm(1789133) or Miner(839074) or Player(726339) or Jones(995067), all of record.

The principal reference to Urban discloses the invention substantially as claimed. However, the principal reference to Urban does not disclose the feature of claims 1, 15 and 18 directed to the attachment rigid structure 34(a plurality of which are shown in Figure 1B thereof) wherein the rigid structure forms a closed loop with the backing plate being made of friction material in the context defined by applicants.

Each one of the secondary references to Bluhm(1789133) or Miner(839074) or Player(726339) or Jones(995067) teaches using friction material for the rigid structure within the friction material of the apparatus.

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the principal reference to Urban to make the material of the attachment structure 34 of friction material as taught by each of the secondary references to Bluhm(1789133) or Miner(839074) or Player(726339) or Jones(995067) in order to material to avoid or at least minimize scoring .

6. Claims 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urban in view of the secondary references as applied to claims 15 and 18 above, and further in view of Schultz(5601174).

The principal reference to Urban (4588050), as modified, discloses the invention substantially as claimed. See column 3, lines 34-41 of Urban(4588050) which discloses drum and disk brakes and other types of coupling arrangements. The principal reference to Urban (4588050) does not expressly disclose the feature of claim 17 and 21 directed to the article or apparatus being a clutch.

The tertiary reference to Schultz(5601174) teaches a clutch plate and lining with attachment means.

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the principal reference to Urban (4588050), as modified, to use the attachment arrangements for attaching a clutch and its lining as taught by Schultz(5601174) since the attachment applies equally well with clutches and brakes since they are in the same field of technology insofar as attachment applies.

7. Applicant's arguments filed 07/15/2004 have been fully considered but they are not persuasive for the above reasons.

Applicants' argument concerning Spokes appears to be well taken.

Re the other secondary references, note again that the scoring of brake components such as brake drums and/or brake disks or rotors is not desirable. Such scoring can come about due to pad fasteners such as rivets or the like making contact with the indicated brake components after the brake pad or lining has worn down to the fasteners which is beyond the normal service life of the brake pad or lining. Each of the secondary references to Bluhm(1789133) or Miner(839074) or Player(726339) or Jones(995067) teaches making the fastener out of friction material to avoid scoring of the brake component once the fastener makes contact with the associated brake component once the brake lining has worn past its normal service life. It would have been obvious at the time the invention was made to one having ordinary skill in the art

to which the invention pertains to make the attachment or fastener out of friction material to avoid scoring as taught by the secondary references.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

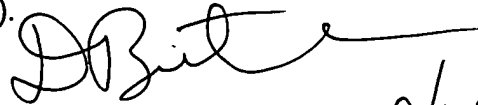
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas C. Butler whose telephone number is 703-308-2575. The examiner can normally be reached on m-f 5:30 am to 2pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3683

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Douglas C. Butler
Primary Examiner
Art Unit 3683

9/25/04
